



**Suggested List of Issues to Country Report Task Force on Ireland for the 109th Session of the Human Rights Committee, 14 October -1 November 2013**

**Reporting Organisation**

LGBT Noise is an independent non-party political group, founded in 2007, which is campaigning for the provision of civil marriage for all people in Ireland, irrespective of gender and sexual identity. Noise also highlights other LGBT rights issues affecting lesbian, gay, bisexual and transgender (LGBT) people in Ireland including gender recognition for transgender people, bullying against LGBT people and parenting and reproductive rights.

This submission identifies key LGBT rights issues for the Human Rights Committee to consider as it prepares its List of Issues for the review of Ireland.

**Issues**

**Marriage Equality (Articles 23, 24)**

We currently have separate and unequal legal recognition for LGBT relationships in Ireland. As the law currently stands, there is a ban on same sex marriage. Marriage between same sex couples is expressly prohibited by s.2(2)(e) of the Civil Registration Act, 2004. The Civil Partnership Act was introduced in 2010. Civil partnership does not provide equality for LGBT people and their families. There are over 169 rights missing from civil partnership which are available in a civil marriage.<sup>1</sup>

The denial of civil marriage for LGBT couples is discriminatory. Noise contends that a separate system of Civil Partnership for LGBT people can never be equality. This segregatory legislation sends a message to society that LGBT people can be legitimately discriminated against. Noise calls for an end to such a discriminatory system, which is solely based on the sexuality and gender identity of individuals.

A Millward Brown poll 2012, shows that 72% of people believe that denying civil marriage to same sex couples constitutes discrimination. 84% of people believe that everyone in Ireland should receive equal treatment from the State, regardless of whether their sexual or gender identity. The Constitutional Convention marked a historic moment towards equality for LGBT people in Ireland - 79% of those at the Convention voted in favour of marriage equality.

---

<sup>1</sup> For further details see Marriage Equality (2011) *Missing Pieces: A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland.*

Marriage equality is a crucial civil-rights issue because it is a matter of equal rights for all people living in Ireland. At its most basic level, the failure to allow same-sex couples to marry, suggests that their love and commitment to each other is not equal to the love and commitment of heterosexual couples. Recognition of LGBT couples right to marry would be an explicit step towards a more equal Ireland. Marriage equality will have a hugely positive personal impact on LGBT families. It will send a positive message of equality and respect to vulnerable young LGBT people in Ireland, who can be victimised because of their identity.

Although the Constitution does not define 'marriage' as being between a man and a woman, it does define 'the family' as being based on marriage. Many rights under Irish law accrue to 'families' and none of these rights are accessible to LGBT families because of the ban on marriage equality.

Heterosexual marriages conducted abroad are automatically recognised under Irish law. This is not the case for LGBT couples' marriages conducted abroad. The Civil Partnership Act automatically downgrades LGBT marriages conducted abroad to the same legal status as an Irish civil partnership. As pointed out, this entails significantly less rights than that of marriage. This demonstrates the extent to which the ban on same-sex marriage has an unnecessary and pernicious impact on couples and families.

### **Rights of Children**

One of the most glaring inadequacies of civil partnership legislation is the lack of provision for children raised by LGBT parents. There are very few protections for LGBT parents and their children. The National Lesbian and Gay Federation conducted a survey of LGBT people in 2009 which showed that 1 in 5 women and 1 in 14 men in Ireland have children, and research published in 2013 reveals an increasing proportion of young LGBT people plan to become parents.<sup>2</sup> Ireland has an obligation to respect, protect and fulfil children's rights and to ensure non-discrimination of children based on their parent's status.

Currently, non-biological parents cannot form legally recognised relationships with their children, even when they are parenting the child on a day-to-day basis. Civil partnership denies non-biological parents the right to make educational and medical decisions regarding their children. The lack of these rights impacts families in basic ways, e.g. collecting a sick child from school. Laws must be put in place to ensure that a non-biological parent can form a protected, legal relationship with their child and assume all of the legal responsibilities involved in parenthood.

Children of LGBT couples are also subject to financial inequities. A child does not have an automatic legal right to claim from a non-biological parent's estate on death. Although parents may pay tax as a couple they are denied their parental rights as a couple. Apart from the financial impact of this lack of legal protection, there is also an emotional impact resulting from the effective denial of a parenting relationship between non-biological parents and their children. The lack of recognition between child and parent is discriminatory

---

<sup>2</sup> NGLF (2009) *Burning Issues: Listening to the Voices of the LGBT Community*.

demeaning and damaging and does not take into account the fact that there are many children in Ireland living in LGBT families.

**We request the Committee to ask the State to:**

- **Take immediate steps to provide for marriage equality in Ireland**

**Legal Recognition of Transgender Persons (Articles 2, 16, 17, 23, 26)**

Transgender people in Ireland face serious risks in terms of their human rights. A recent survey by the Transgender Equality Network Ireland (TENI) found that 80% of transgender people in Ireland had attempted suicide. A global study by the National Gay and Lesbian Task Force and the National Centre for Transgender Equality last year found a staggering 41% out of 6,400 transgender people had attempted suicide and 90% of transgender and non-gender-conforming people had experienced harassment and discrimination.

Ireland has to date failed to provide for transgender persons to have their true gender identity legally recognised. The Gender Recognition Bill has been drafted to provide for legal recognition by the State. However, aspects of the bill are problematic and transgender organisations have not been adequately involved in this process.

Under this proposed legislation transgender people who are married will be unable to have their gender recognised. In such families a transgender person would have to continue to have their rights violated or divorce in order to have their gender recognised.

Under the proposed heads of bill no person under 18 will be eligible to have their true gender recognised and this leaves these young people in very vulnerable positions.

As proposed at present a medical professional is required to sign off on a transgender person's gender identity. This is an unnecessary and onerous provision we would propose a process that respects the autonomy of the individual.

**We request the Committee to ask the State to:**

- **Revise the Gender Recognition Bill in full consultation with transgender advocates.**
- **Allow for married transgender people to have recognition of their true gender identity.**
- **Provide a mechanism whereby people under 18 can have their true gender recognised.**

**Discrimination against LGBT persons in employment (Article 2)**

Section 37 (1) (b) of the Employment Equality Act 1998, provides religious-run institutions with an exemption from certain anti-discrimination measures in the Employment Equality Act 1998. This allows these institutions to bypass anti-discrimination measures if it is felt that

the ethos of the institution is being undermined or breached. This is a major issue in schools as 90% of primary schools are catholic and 52% of secondary schools are catholic.

This means that LGBT people can be fired, not hired, or prevented from promotion on the grounds of their sexual orientation or identity. This has a huge impact on LGBT staff and wider society as LGBT people are less likely to be open about their identity. This causes ongoing anxiety for LGBT staff who may feel they have to hide their identity and young LGBT people are denied role models in their classrooms.

A bill has been proposed to amend subsection (1) (b). While this would make it harder to invoke a sanction against an employee on the basis of their identity, LGBT Noise contends that the subsection should be removed completely.

**We request the Committee to ask the State to:**

- **Remove section 37 (1)(b) of the Employment Equality Act 1998.**

For more information contact [info@lgbtnoise.ie](mailto:info@lgbtnoise.ie)

LGBT Noise  
c/o Outhouse  
105 Capel Street  
Dublin 1.